

Report to
The 2nd International Conference for the Women's War Crimes Tribunal 2000
Seoul, Korea, February 18-19, 1999
VAWW-NET Japan

Introduction

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Seoul Conference)*

Introduction

1) VAWW-NET Japan

As a result of the International Conference on Violence Against Women in War and Armed conflict situations which was held from October 31 to November 3, 1997 in Tokyo with 40 participants from 20 countries, VAWW-NET was founded; then VAWW-NET Japan was formed as its branch in June 1998.

VAWW-NET Japan is working on the following three areas:

- 1) To demand Japan justice and dignity of "comfort women", the victims of Japan's Military Sexual Slavery,
- 2) To advocate the withdrawal of the US military bases from Japan which causes sexual violence,
- 3) To share information of violence against women in war and armed conflict situations throughout the world to take action to end such violence.

2) A Overall view of the preparation for the Tribunal in Japan

As a major work of the first area, VAWW-NET Japan proposed to hold Women's International War Crimes Tribunal on Japan's Military Sexual Slavery in December, 2000 in Tokyo.

The first symposium toward the Tribunal was held on June 7, 1998 in Tokyo with Prof. Yun Chung-Ok as keynote speaker to publicize the Tribunal in Japan.

The research team was formed and those who would be in charge of each victim

country were named to pursue investigation. The team made a plan of publishing results of research and investigation as a series of books and also proposed to study with focus on review of the Tokyo Trial after war from gender perspective in 1998.

A series of public seminar were held on "Review of Tokyo and other war crimes trial", (Aiko Utsumi), "the characteristic of the Japanese Imperial Army" (Akira Fujiwara) and "the chain of command and order of the Japanese Imperial Army" (Yoshiaki Yoshimi).

The lawyers' consultation was held in November to discuss about the character, objectives and the rules of the Tribunal. Prof Theo van Boven, legal advisor for the Tribunal who visited Japan gave some legal advises and mentioned some names as candidates for the Tribunal members.

In the field of publicity, VAWW-NET Japan published a newsletter and translated the McDougall Report into Japanese to publish as a book with the interview with McDougall and messages from Yun Chung-Ok and Indai Sajor in December 1998.

3)The international symposium and other events in December in Tokyo

On December 12, 1998, the International Symposium: How to hold the Women's International War Crimes Tribunal 2000? was held in Tokyo, with participation of some 400 women and men, including overseas delegates from Korea, Taiwan, China and Indonesia with message from North Korea. The program was consisted of the keynote speech by Tina Dolgopol, reports of the 9 years movement of "comfort women", reviewing Tokyo Trial, three views from Japanese side for the Tribunal and proposals for action by Korea and Japan and finally the appeal to the women of the world was adopted.

As a pre-event for the symposium, the memorial ceremony and candle march to commemorate 109 "comfort women" who have passed away was held on December 10, on the occasion of the 50th anniversary of the Universal Declaration of Human Rights.

Two international conferences were held before and after the symposium. On December 11, the 1st international conference for the Tribunal was held to discuss how to make the Tribunal international. Different views on the character and the

objectives of the Tribunal were expressed by participants from various countries and consensus was not reached. In addition to that, Ms Indai Sajor, who was organizing the international committee for the Tribunal was absent. Therefore, it was not realized to form the International Committee at the conference.

On December 13, the international research and investigation conference was held, and some 30 Japanese researchers, lawyers, historians and activists attended and discussed with overseas delegates how to cooperate in research and investigation.

4)International Tasks

As a result of all these conferences and symposium in December, it was made clear that those working for the Tribunal of all concerned countries have the following tasks:

- 1 To form the international organizing committee as early as possible. For that purpose, it was proposed to hold the 2nd international conference in Seoul with Indai Sajor.
- 2 To reach consensus on the character and the objectives of the Tribunal. Twenty points for discussion have been worked out and some Japanese lawyers offered to work out the first draft of the Rules or Statute for the Tribunal to be discussed by other countries.
- 3 To work together for research and investigation according to the character and the objectives of the Tribunal.
- 4 To recommend candidates for members of the Tribunal and to make decision whom to ask in order to start negotiation with them.
- 5 To work out funding strategies and start fund raising.
- 6 To make international publicity at various international conferences and other channels.
- 7 To make plans and schedules of the preparation until 2000

5)Plans of VAWW-NET Japan for 1999

- 1 To hold seminars on other tribunals. (Neurunberg Trial, French Trial, Former Yugoslavia, Rwanda, South Africa and others).
- 3 To study international criminal law and other related international laws.
- 4 To organize a study tour to Yugoslavia.
- 5 To invite Ms McDougall.
- 6 To publish a series of booklet on Tribunal.

1. The Organization of VAWW-NET Japan

(Violence Against Women in War Japan Network)

1. Established : June 1998
2. Number of Members : 170 (including 20 men)
3. Source of Funding : Annual membership fees of ¥12,000 (¥1,000/month)
4. Activities

(1) In order to work to restore the dignity and provide justice to the victims of the Japanese ~~military slavery system~~ ^{sexual}, and to have Japan take responsibility for its war/postwar responsibility :

a. Make preparations for an International Women's ~~Tribunal on~~ ^{international} War Crimes ~~Tribunal~~ ^{Tribunal} to be held in 2000;

b. Give support for court cases seeking apologies and compensation;

And

filed by former "comfort women"

c. Campaign to have a compensation system made into law.

(2) Demand the withdrawal of U.S. bases from Okinawa, and the abolition of the New Guidelines for U.S.-Japan Defense Cooperation

related bills for the
The new Defense Cooperation Guidelines are being debated in

the current Diet session, and we are currently working against this by lobbying Diet members along with other groups.

(3) To learn of the situation and background to violence against women in areas of war and conflict, help victims to share their pain, and carry out solidarity activities to stop such violence.

Mainly, this involves providing information to members through VAWW-NET ^{Japan} and responding to calls for solidarity from various areas of the world.

5. Organization

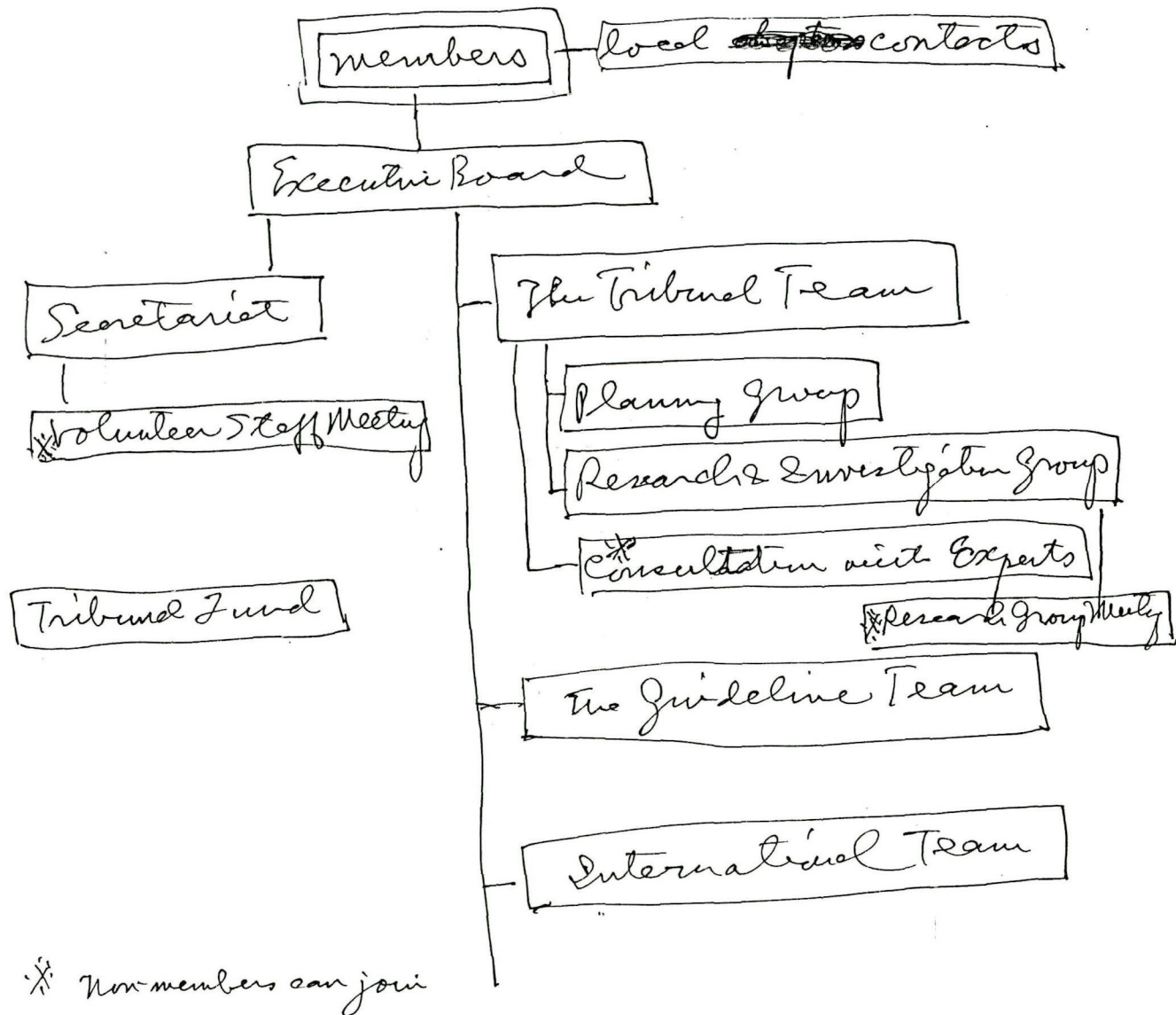
Chairperson
Director: Matsui Yayori

Chairperson
Vice Director: Nakahara Michiko, Nishino Ruriko

Secretary General: Kim Pu-ja (acting secretary general: Takashima Tatsue)

Executive board: 20 persons

the organization of V DWW NET JAPAN



2 The Preparatory Activities for the Women's International War Crimes Tribunal

a) ~~VAWW-NET Japan~~ Research & ~~VAWW-NET Japan~~ Investigation Plan

February 18-19, 1999

Preparation Meeting in Seoul for the War Crimes Tribunal

Report from Nishino Rumiko, VAWW-NET Japan Investigation Team

In preparing for the International Women's Tribunal on War Crimes, a VAWW-NET Japan investigation team composed of Nishino Rumiko, Kim Puja, Ikeda Eriko, and Utsumi Aiko, has discussed with the Executive Board and at tribunal meetings questions such as what must be investigated, what it is possible to investigate, and how to record those investigations for posterity. The planning is as below. There remain points not yet resolved and issues that require further discussion. But, considering that there are topics that cannot proceed solely in Japan and that there is insufficient time to adequately investigate topics before the opening of the tribunal, we would like to share at this international meeting the contents of our investigations and the object of the tribunal.

As we proceed with local investigations and collection of source materials, VAWW-NET Japan is concentrating on investigation and research that clarifies 1) the people in command during the war; 2) the people ~~who carried out the commands~~ during the war; 3) the actual conditions and responsibility of those were ^{actual crimes} complicit during the war; and 4) the chain of command during the war. We also have discussed the importance, in the pursuit of postwar responsibility, of including investigation and research on the exposure of the "Comfort Women" issue and the actions that deny the "Comfort Women" issue.

Below is the investigation plan discussed by VAWW-NET Japan. We would like to recommend that there be discussion of establishing cooperation frameworks for investigation and division of assignments as well as joint investigations.

1) ^{Regional} ~~Local~~ investigations: cooperation with other countries (the possibility of joint investigations?)

South Korea, North Korea: Colonial rule and Korean “comfort women”/Northeast China “comfort women”/Korean intermediaries

China: ~~Shansi~~ province/Hainan island/sexual violence during the
e/et cetera

Indonesia: Indonesian “comfort women”

Myanmar: Burmese “comfort women”

Vietnam

New Guinea *children*

3) Investigation of ~~source materials~~ *wartime documents*

✓ 4) Survey by interviews with former
investigation of the sex consciousness of veterans of the Japanese military men on

2. Intellectual and Structural Research on the ~~Victimizers~~^{Perpetrators} Psychological Structure and Consciousness of Japan's War Responsibility

The Psychological structure of ~~victimizer~~^{perpetrator} soldiers/special characteristics of the Emperor's army/research on Japanese soldiers using memoirs of war experiences and military unit histories/victimizer soldiers and trauma/theories of war responsibility seen from gender perspectives/theories of the Emperor's war responsibility/responsibility for

colonial rule/postwar Japanese feminism and the "comfort women" issue/licensed prostitution and the "comfort women" issue/public denials of the "comfort women" and postwar responsibility/ et cetera

3. Records & *documentation*

Written records (publication)/video records/collection of investigation reports/collection of reports on sex consciousness/et cetera

4. *Research*
Investigation

Local investigations – investigation members + historians

Investigation and research of chains of command – project team

Investigation of source materials – investigation members + scholars + volunteers

Investigation of sex consciousness – questionnaire supervisor (including volunteers and staff) + recruiting people nationwide who will conduct interviews. (mostly interview and not mailing of questionnaires)

5. Concerning cooperation with the investigation from other countries

1) Which investigations can proceed through joint cooperation? (including divisions of assignments)

2) Concerning inaccessible source materials, how will people in those countries and VAWW-NET ^{JAPAN} access public institutions holding source materials? (decide who will make the plans and ask for assistance in other countries)

2) If a symbolic case is to be presented at the Tribunal, which case will be presented?

2- The character and the objectives of the Tribunal

During the 1st international conference in Tokyo and at the other meetings after it, different views on the Tribunal were presented by different countries and individuals. These sometimes contradicting views have been listed as 20 points for discussion.

The expert consultation meeting was held on February 9, 1999 and lawyers, academics on history and philosophy discuss these twenty points. Some lawyers offered to write a first draft for the Statute for the Tribunal.

Prof Akira Maeda and Atty Yasushi Higashizawa suggested to use the Statute of the International Criminal Court which was adopted at the Rome conference in July, 1998 as a starting point to make the Statute for the Tribunal.

Atty Yuichi Yokota emphasized that the Tribunal is not the criminal trial by the state power; instead, it is an alternative people's tribunal like the Russell Tribunal during the Vietnam war, accordingly, new rules or methods should be explored in addition to the ICC Statute.

It has been pointed out the process toward the Tribunal is very important, especially the research and investigation to expose the system of "comfort women" and those responsible for it is vitally important. In this regard, the Truth and Justice Commission of South Africa and Recovery of Historical Memory Project (REMHI Project) of Guatemala are useful.

The research and investigation for collecting evidences for the Tribunal has two areas: 1) documenting testimonies of both survivors and former military men and 2) exposing Japanese military and other war documents which are kept in the former Allied countries and Japan.

Anyway, it is urgently needed to decide what kind of Tribunal we want to hold, then we have to focus the targets for research and investigation and also to select members of the Tribunal.

It may be recommended to hold a consultation of lawyers of concerned countries on the Tribunal sometime this year to finalize the priorities and the objectives of the Tribunal in order to write any statute or charter of the Tribunal.

5-12-3

Year 2000 Women's International War Crimes Tribunal on Japan's Military Sexual Slavery

reparation

20 Points raised for discussion

A Objectives and character

1. What kind of character should the "Women's International War Crimes Tribunal" be given? Should it be a combination of a fact investigation committee and the ideas of the Russell Tribunal?

As for its concern with the "comfort women" system, it has to be ensured that

- a) special emphasis is put on the fact finding concerning those responsible for the system, and that as much evidence as possible is presented,
- b) further, that the victims are called upon for testimony, and
- c) that great care is taken in collecting all necessary facts.

The South African Truth and Reconciliation Commission or the Guatemalan REMHI Project (the Recovery of Historical Memory) may be instructive for our purposes.

time-consuming.

2. Or should the focus be on the criminal prosecution of the war crimes and the punishment of those found guilty? In this case, should the Tribunal take a form approximating that of a criminal trial? Or should a new paradigm, a new mode of court process be devised?

3. The Tribunal should not just be a public hearing. Since the Tribunal would make little sense, if it loses its aspect of "prosecution" or "punishment" – even though it does not possess the legal power to enforce punishment – should we thus present a kind of symbolic cases? For instance, following the example of the civil lawsuits filed by "comfort women" demanding compensation, responsible individuals could be explicitly identified, or the connection between the comfort stations and those politicians could be disclosed who, despite war crimes, have come to hold positions of influence in post-war politics, or those who made statements in which they attempt to justify Japan's aggressive war.

4. In order to make clear why the comfort station system constitutes a crime, it is necessary to provide as complete a picture of the whole system as possible. Should we, therefore, attach importance to the testimony of those victims, as well, who were not directly linked to specific war criminals?

yes

5. The Tribunal will lay stress on a gender perspective as well as on the victims' perspective. But can the Tribunal be given a complete new, unprecedented form, for example, through video evidence/testimonies and the personal testimonies of the victims?

Yes.

6. In order to make this a tribunal of historical significance, namely as a People's Alternative Tribunal, should it be made a precedent by calling Japan to not only account for the "comfort women" system, but for all its war crimes and both with regard to its war and post-war responsibility?

Yes.

B Targets for criminal prosecution

7. Whom do we refer to when we speak about "those responsible"? Although soldiers who used the comfort stations are not exempted from their responsibility for the offense (McDougall report), should one concentrate foremost on the command responsibility of officers? This also means that – alongside generals and high-ranking military personnel – one should also target those responsible among government officials; for instance, of the former Ministry of Home Affairs or of the police.

ILC.

8. Will also those already dead be included among the group of persons to be indicted? What happens in this case with the right to defence?

9. According to Prof. Theo van Boven, only natural persons but also legal persons can be included among those on trial. Which state organs and companies/organisations could, then, be put on trial?

10. As for the responsibility of the state, the International Law Commission (ILC) of the UN prepared a draft for the provisions of state responsibility, which produced a concept of international crimes committed by a state. Is it possible, by following this concept, to prosecute the state responsibility for the comfort station system?

11. It is not only a matter of responsibility for the crimes committed against women during the war. These crimes were also covered up, falsely represented or denied and the responsible persons have never been tried. Moreover, the suffering of the victims continues to the present

in trial of current law - failures
→ new law reform

day. In view of these facts, should not judgement be passed on the post-war responsibility of those since in power? How could this be achieved?

12. Is it possible or appropriate to call the former allied countries to account for their action of giving immunity to the Emperor?

broadering the theme
Nanking

13. The subject of the Tribunal is Japan's military sexual slavery, but should also mass rapes on the front and other cases of sexual violence be treated by the Tribunal?

Yes

14. Is it possible to try, alongside the case of Japanese military sexual slavery, also the cases of contemporary sexual slavery in other countries such as former Yugoslavia, Rwanda, Algeria, and others, an Algerian woman has suggested?

C Rules, Statute and Charter

15. The Tribunal requires the stipulation of ^{rules} rules, but should it also be given a sonorous kind of "charter" – similar to the Russell Tribunal – that would not only include the proceedings for the Tribunal but also statements of its aims and the like?

Yes

16. Is it better if the sentence or verdict of the Tribunal referred to both the responsibility under criminal law and also to the ^{reparation} compensation? Japanese courts strictly separate civil from criminal laws, but there are also countries with legal systems where such a division does not exist. The International Criminal Court, for instance, does include the ^{reparation} compensation.

17. Even if the trial is conducted based on the international law of the time when the crimes were committed, should other views which reflect the development of international law and human rights concept until now be also added?

Yes

D Members of the Tribunal

18. Although we need to select the members of the Tribunal quickly, we still have to decide whether to concentrate on prominent persons of international influence, or on specialists in international law with a world-wide reputation.

short list

19. It has been suggested that the "judges" and "the members of the jury" should be chosen from countries other than the offending and offended countries, but what about the

"prosecutors" ? Should they not include persons from the victims' countries? Shouldn't we aim to achieve both a gender balance and a regional balance in the representation of the members of the Tribunal?

20. Who should be asked to act as counsel for the defence? There has been a request to this extent by a lawyer who is thought to be right-wing.

(These 20 points were presented by VAWW-NET Japan at the experts consultation on February 9, 1999)

C)
2- International coordination

It is urgently needed to form an international committee for the Tribunal, because the Women's Tribunal should be international in the sense that Japan's military sexual slavery should be broadened from the bilateral treatment to the international arena. Therefore, VAWW-NET Japan expects to form the international organizing committee with the policy making power, rather than just an advisory role. It should be decided for the international committee to have what kind of role or function.

One of the major roles of the international committee is to select members of the Tribunal and to start negotiation with them as soon as possible, otherwise it will be too late for some of expected members of the Tribunal.

Here is the list of those who have been recommended by the legal advisor or many other persons connected with VAWW-NET.

Another role which the international committee is expected to play is to promote or support the fund raising campaign.

The list of the recommended Members of the Tribunal

「女性国際戦犯法廷」メンバー候補リスト (英文)

Women's International War Crimes Tribunal on Japan's Military Sexual Slavery
December 8-10, 2000 Tokyo

★ Legal Advisor

Professor Theo van Boven (Netherlands) : Maastricht University

★ International Committee

- Charlotte Bunch (USA) : Center for Women's Global Leadership
- Florence Butegwa (Uganda) : Associates for Change
- Ariane Brunet (Canada) : International Center for Human Rights and Democratic Development (ICHRDD)
- Tina Dolgopol (Australia) : Flinders University
- Alda Facio (Costa Rica) : Women's Caucus for Gender Justice in the ICC
- Marieme Helie Lucas (Algeria/France) : Women Living Under Muslim Law
- Lepa Mladjenovic (Serbia) : Autonomous Women's Center Against Sexual Violence Zenski Center
- Indai Sajor (Philippines) : Asian Center for Women's Human Rights

Adna Ajkino (AZ, London)

★ Candidates for the Tribunal members

(judges, prosecutors, jury, expert witness, defense counsel etc)

◆ Women Lawyers

- Hanah Ashrawi (Palestine)
- Christine Chinkin (UK)
- Rebecca Cook (Canada)
- Rhonda Copelon (USA) Columbia University → *legal advisor*
- Eleanor Conda (Philippines) International Women's Rights Action Watch Asia Pacific
- Radhika Coomaraswamy (Sri Lanka) Special Rapporteur on Violence against Women
- Joanna Foster (Zimbabwe)
- Judith Gardén (Australia) Adelaide University
- Jennifer Green (Rwanda) US
- Asma Abdul Halim (Jordan) ICJ *van Boven*
- Hamida Hussein (Bangladesh)
- Asma Jahangir (Pakistan)
- Hina Jilani (Pakistan)
- Rita Serena Kolibonso (Indonesia) LBH
- Fiona McKay (UK) REDRESS
- Gay J McDougall (USA) Special Rapporteur on Slavery
- Betty Murungi (Kenya) Federation of Women Lawyers
- Diana Orentlicher (USA)
- Karen Parker (USA) *Orentlicher*
- Mona Rishmawi (ICJ) *Palestine*
- Margaret A Schuler (USA) Women, Law & Law International
- Virada Somsawasdi (Thailand) Chiang Mai University
- Donna Sullivan (USA)

Jose

Mackinnon

◆ Eminent Women

Sunila Abeysekera (Sri Lanka) Inform
Isabel Allende (Chili)
Kamla Bhasin (India) FAO
Emma Bonino (Italy) EC
Bianca Jagger (Canada) Amnesty International
Marieme Helie Lucas (Algeria/France) Women under Muslim Law
Rigoberta Menchu (Guatemala) Nobel Prize Winner
Ritu Menon (India) Kali for Women
Daniele Mitterland (France) Human Rights Summit
Yoko Ono (Japan/USA) peace activist
Nawal El Saadawi (Egypt)
Helke Sander (Germany) cinema director
Ruth Seifert (Germany) military history *München*
Patricia Sellers (USA) Gender Advisor for ICTFY & ICTR

◆ Eminent men and male lawyers

Bagwati (India) Justice
Chirif Bassiouni (USA) De Paul University *go*
Roger Clark (US/New Zealand)
Adma Dieng (Senegal) ICJ *5-61 sp on Haiti*
Richard Goldstone (South Africa) Former Prosecutor for ICTFY
Iyer (India) Justice
Louis Joinet (France) UN Special Rapporteur on Impunity
Fritz Kalshoven (Netherlands)
Theodore Meron (USA)
Vittit Muttarborn (Thailand) Chularonkorn Univesity
Pedro Nikken (Venezuela)
Bill Pace (USA) NGO Coalition for ICC
Francois Rigaux (Belgium)
N. Palavi (South Africa)
Pierre Sane (Senegal/France) Amnesty International
Christian Tomuchat ()
Desmond Tutu (South Africa)
David Weissbrodt (USA)

former sp on children

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